

(APPEARANCES CONTINUED)

For the Plaintiffs:

Mr. David Riggs
Mr. David P. Page
Mr. Richard T. Garren
Ms. Sharon Gentry
Riggs Abney Neal Turpen
Orbison & Lewis
502 West 6th Street
Tulsa, Oklahoma 74119

Mr. Louis W. Bullock
Bullock Bullock & Blakemore
110 West 7th Street
Suite 770
Tulsa, Oklahoma 74119

Mr. Frederick C. Baker
Ms. Elizabeth Claire Xidis
Motley Rice LLC
28 Bridgeside
P. O. Box 1792
Mount Pleasant, South Carolina 29465

For the Tyson Foods
Defendants:

Mr. Robert W. George
Kutak Rock LLP
The Three Sisters Building.
214 West Dickson Street
Fayetteville, Arkansas 72701

Mr. Jay T. Jorgensen
Sidley Austin LLP
1501 K Street NW
Washington, D.C. 20005

Mr. Patrick M. Ryan
Ryan Whaley Coldron Shandy, PC
119 North Robinson, Suite 900
Oklahoma City, Oklahoma 73102

For the Cargill
Defendants:

Mr. John H. Tucker
Ms. Leslie Southerland
Rhodes Hieronymus Jones
Tucker & Gable
100 West 5th Street
Suite 400
Tulsa, Oklahoma 74103

(APPEARANCES CONTINUED)

For the Cargill
Defendants:

Mr. Delmar R. Ehrich
Mr. Bruce Jones
Faegre & Benson
90 South 7th Street, Suite 2200
Minneapolis, Minnesota 55402

For the Defendant
Simmons Foods:

Mr. John Elrod
Ms. Vicki Bronson
Conner & Winters
Attorneys at Law
211 East Dickson Street
Fayetteville, Arkansas 72701

For the Defendant
Peterson Farms:

Mr. A. Scott McDaniel
Mr. Philip Hixon
Ms. Nicole Longwell
McDaniel Hixon Longwell & Acord PLLC
320 South Boston, Suite 700
Tulsa, Oklahoma 74103

For the George's
Defendants:

Mr. Woodson Bassett
Mr. James M. Graves
Mr. Paul E. Thompson
The Bassett Law Firm
Post Office Box 3618
Fayetteville, Arkansas 72701

For the Cal-Maine
Defendants:

Mr. Robert F. Sanders
Young Williams P.A.
P. O. Box 23059
Jackson, Mississippi 39225

- - - - -

CONTENTS

Page No.

OPENING STATEMENTS:

By Mr. Edmondson..... 30

By Mr. Ryan..... 42

WITNESSES CALLED ON BEHALF OF PLAINTIFFS:

CANON MILES TOLBERT:

Direct Examination by Mr. Edmondson..... 65

RECROSS-EXAMINATION

BY MR. GEORGE

Q. Dr. Engel, have you ever spoken with anyone at George's as to why they might be moving poultry litter to the Delta?

A. I have not.

Q. Were you just speculating about why, one possible reason as to why that might be occurring?

A. Well, certainly the literature would all seem to indicate that, you know, you lose the economic value after you transport this more than a few tens of miles, including the Rausser-Dicks materials that you provided.

Q. You have no idea why they transferred it to the Delta, do you?

A. Well, most likely it's either because --

Q. Sir, do you know why they transferred it to the Delta?

A. I don't know exactly why George's does that.

MR. GEORGE: Okay, thank you.

THE COURT: You may step down. The plaintiff may call its next witness.

MR. NANCE: Your Honor, State would call Dr. Gordon Johnson.

GORDON VERNON JOHNSON

Called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

THE COURT: State your full name for the record,

1 please.

2 THE WITNESS: Gordon Vernon Johnson.

3 THE COURT: Mr. Nance, you may inquire.

4 MR. NANCE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. NANCE:

7 Q. You've told the Court your name. Would you tell the Court
8 what you have done in your professional career, particularly at
9 the Oklahoma State University?

10 A. I served as extension soil nutrient management specialist
11 and director of the soil, water and forage testing laboratory.

12 Q. And for what period of time were you at Oklahoma State
13 University?

14 A. I was there from 1977 through 2004.

15 Q. Were you, at least in 2003 and '4, the regent's professor
16 of soil science at the university?

17 A. Yes.

18 Q. Let me ask you to look at Exhibit No. 84 and ask if that
19 is your curriculum vitae current through March of 2003?

20 A. Yes.

21 Q. And other than the fact of your retirement in 2004, is
22 there any change that needs to be made to that?

23 A. No.

24 Q. Have you testified as an expert witness in court cases
25 before?

1 Q. Let's start, sir, in a nutshell your opinion is this: You
2 don't believe that anyone should be allowed to use poultry
3 litter on pastures in the Illinois River Watershed if the soil
4 in the Illinois Watershed tests at 65 soil test phosphorus or
5 higher; right?

6 A. That's in a nutshell correct. I don't believe there's any
7 phosphorus benefit to the application of poultry litter in the
8 IRW when the soil test P is above 65.

9 Q. As a consequence of that opinion, you believe that all the
10 litter in the Illinois River Watershed should be removed and
11 not used in the watershed; correct?

12 A. Yes.

13 Q. All right. You've told this Court that land applying
14 poultry litter on lands in the Illinois River Watershed when
15 the STP is 65 or higher is waste disposal; right?

16 A. I believe that's what the practice has been, yes.

17 Q. All right. Do you believe that if you use poultry litter
18 on pastures and the soil test phosphorus is below 65, the STP,
19 is that waste disposal in your opinion?

20 A. I believe that you could get some benefit from the
21 phosphorus in the litter in those cases.

22 Q. All right. My question is, if the soil test phosphorus is
23 below 65, do you believe that is disposal of a waste or not?

24 A. I don't believe you can determine whether it's disposal of
25 waste or not in that situation.

1 that's all right.

2 THE COURT: That would be fine.

3 MR. MCDANIEL: Thank you.

4 Q. (By Mr. McDaniel) All right. Dr. Johnson, we put up
5 which is Defendants' Exhibit No. 4. Would you tell the Court
6 what that is, please?

7 A. That's the Natural Resource Conservation Service nutrient
8 management Code 590 document.

9 Q. All right. You agree that this is a standard developed by
10 the United States Department of Agriculture Natural Resources
11 Conservation Service for Oklahoma that provides the
12 requirements for animal waste management plans written for
13 Oklahoma poultry growers?

14 A. I believe that's true, yes.

15 Q. All right. Let's flip over to page 4. And Ms. Ferguson
16 is going to, on the screen, focus in on the section that refers
17 to phosphorus application. Do you see the bullet point that
18 says phosphorus application?

19 A. Yes.

20 Q. And the Code 590 says for the application of phosphorus,
21 the maximum planned rates of phosphorus application shall be
22 determined using the Oklahoma Phosphorus Assessment Worksheet
23 and then Tables 8 and 9. Do you see that, sir?

24 A. Yes, I see that.

25 Q. All right. Let's flip over to page 20 of Exhibit 4. Page

1 20 is entitled the Oklahoma Phosphorus Assessment Worksheet.

2 Do you see that?

3 A. Yes.

4 Q. All right. Now, you've never actually used one of these,
5 have you?

6 A. Used it in what sense?

7 Q. You've never filled one of these out and completed one of
8 these for a pasture?

9 A. No.

10 Q. All right. Now, you agree that under the Code 590 which
11 is part of the Oklahoma law, the nutrient plan writer is
12 required to fill one of these out for each field where poultry
13 litter may be land applied, do you agree?

14 A. I don't know if that's the case or not.

15 Q. You don't know if that's the law?

16 A. Well, I'm not familiar with the law.

17 Q. Do you agree that this -- I thought we agreed this Code
18 590 applies to animal waste management plans for poultry
19 growers in Oklahoma?

20 A. Yes, I think that's probably true. Whether it's the law
21 or not, I don't know.

22 Q. Oh, you don't know whether the Code 590 is the law of
23 Oklahoma?

24 A. That's true. I think you told me it was, so I think it
25 probably is.

1 Q. You prefer not to trust me on that?

2 A. No.

3 Q. Let's look at the Oklahoma Phosphorus Assessment
4 Worksheet. You do agree that a nutrient plan writer who's
5 preparing an animal waste management plan for an Oklahoma
6 poultry grower in the Illinois River Watershed should fill one
7 of these sheets out for each field?

8 A. Yes, and particularly as it relates to the use of animal
9 waste and that's what this is. Because of the higher risk for
10 pollution resulting from animal waste applied to the fields,
11 you must have these additional requirements.

12 Q. Each one of these sheets should be filled out for each
13 individual field to take into account field-specific physical
14 characteristics, do you agree?

15 A. I expect they should, yes.

16 Q. All right. Let's look at the sheet and look at some of
17 the criteria that planners are supposed to use. The planner is
18 supposed to include the soil test phosphorus?

19 A. Yes.

20 Q. That's what we've talked about quite a bit this afternoon,
21 isn't it?

22 A. Yes.

23 Q. Supposed to consider how it's put on the ground, the
24 application method; right?

25 A. Yes.

1 Q. Supposed to consider the slope of the land?

2 A. Yes.

3 Q. Supposed to consider the potential for erosion of the
4 land?

5 A. Yes.

6 Q. Supposed to consider the frequency of flooding?

7 A. Yes.

8 Q. The planner is supposed to consider the distance of the
9 application to streams, ponds, wells and sink holes. Do you
10 see that?

11 A. Yes.

12 Q. Do you see these criteria here?

13 A. Yes, I do.

14 Q. A hundred feet from a stream, pond, well, 300 feet from
15 every drinking water well. Next one down, distance to a
16 stream, it's defined; correct?

17 A. Yes.

18 Q. It can be altered if there is a buffer in place; right?

19 A. I believe that's true.

20 Q. All right, and then depth of soil, that's another
21 criteria?

22 A. Yes.

23 Q. It has to be at least 10 inches of soil in order to use
24 poultry litter; correct?

25 A. Yes.

1 Q. And also how rocky the soil is is a factor the planner
2 should consider; correct?

3 A. Yes.

4 Q. Were you here earlier this afternoon as Dr. Fisher was
5 talking about the characteristics of the soil in the Illinois
6 River Watershed?

7 A. Yes.

8 Q. And he was talking about how some places it's rocky?

9 A. Yes.

10 Q. All right. That's something a nutrient management planner
11 is supposed to observe and take note of in preparing the
12 phosphorus assessment worksheet, do you agree?

13 A. Yes.

14 Q. Now, the criteria that you are asking this Court to adopt
15 is only the very first one I mentioned, that's soil test
16 phosphorus; right?

17 A. Yes.

18 Q. All these other criteria, you would agree, Dr. Johnson,
19 relate to the potential for phosphorus to move from that land
20 application site into a water course?

21 A. If you are applying animal manure, yes.

22 Q. Now, let's look back. We're still in Code 590. Would you
23 look at page 4, sir. Tell me when you are there.

24 A. Yes.

25 Q. It should be up on the screen. The left column, Dr.

1 Johnson, set out by the NRCS under these bullet points are a
2 number of physical conditions on an individual field which, if
3 they are present, you cannot use poultry litter, do you agree?

4 A. Yes, I think we just went over each of these.

5 Q. Right. In other words, that slope factor, if it's over 15
6 percent slope, no litter; right?

7 A. That's correct.

8 Q. If there's less than 10 inches of soil, no litter; right?

9 A. That's correct.

10 Q. Okay. We're not going to go through the list, but I just
11 want to point out for the Court's benefit that there's a number
12 of items listed here.

13 A. Yes.

14 Q. Now, in order to make use of poultry litter in the
15 Illinois River Watershed, I believe the Code 590 told us to
16 look at Table 9. Do you remember that?

17 A. Yes.

18 Q. Let's look at page 21. Tell the Court what Table 9 is.

19 A. Table 9 is a table that shows -- it's titled animal manure
20 application rates for non-nutrient -- I'm sorry, wrong table,
21 that's Table 8. Table 9 is annual manure application rates for
22 nutrient limited waters. And it shows the soil test values --
23 a range of soil test values from zero to greater than 300
24 related to application rates associated with soil depth and
25 percent slope. It also shows those in relationship to the size

1 of rocks and the soil covered by rocks.

2 Q. All right. On this Table 9, sir, has the soil test
3 phosphorus as one of the columns?

4 A. Yes.

5 Q. And you would agree, sir, that the legal maximum here in
6 the Code 590 is 300 STP, not the 65 you propose?

7 A. Yes.

8 MR. NANCE: I object as calling for a legal
9 conclusion, Judge.

10 THE COURT: I think he's just asking a factual bit of
11 information there. Overruled.

12 A. What you stated is what is found on this table.

13 Q. (By Mr. McDaniel) Thank you. Now, let's go back to the
14 very beginning, sir. Page 1 of the document --

15 A. Yes.

16 Q. -- PI Exhibit 4. Now, just to circle back, you made the
17 statement that putting poultry litter down anywhere at 65 STP
18 above amounts to waste disposal?

19 A. Yes.

20 Q. But let's look here under the purposes on page 1 of the
21 code. It says the purposes of the nutrient management code are
22 to budget and supply nutrients for plant production; right?

23 A. Yes.

24 Q. To properly utilize manure or organic byproducts as a
25 plant nutrient source; right?

1 A. Yes.

2 Q. To minimize agricultural non-point source pollution of
3 surface and groundwater resources. Do you agree?

4 A. Yes.

5 Q. To protect air quality by reducing nitrogen emissions and
6 the formation of atmospheric particulates; right?

7 A. Yes.

8 Q. The last one is to maintain or improve the physical and
9 chemical and biological condition of soil; is that right?

10 A. Yes.

11 Q. All right, sir. Is the word disposal mentioned there
12 anywhere?

13 A. No.

14 Q. It says to properly utilize animal nutrients. That's the
15 NRCS' language, isn't it?

16 A. Yes, and I would like to add that it also says as one of
17 those bullets to minimize agricultural non-point source
18 pollution of surface and groundwater resources. And that the
19 scientific literature has many studies that conclude as soil
20 test phosphorus levels increase, the water soluble phosphorus
21 in field runoff increases proportionately. So to the extent
22 that this objective is being attempted to be carried out, Table
23 9 doesn't do it.

24 Q. Oh, I see. You don't think the NRCS is accomplishing its
25 mission in Oklahoma?

1 A. There's a contradiction between this objective and the
2 excessive application of poultry litter when the soil test
3 phosphorus is above 65.

4 Q. Now, isn't it true, Dr. Johnson, that you've actually gone
5 to the NRCS and told them their code is wrong? That's true,
6 isn't it?

7 A. That's true. Well, I don't know if I told them it was
8 wrong.

9 Q. Excuse me?

10 A. I don't know if I told them it was wrong. I told them at
11 the time as they were seeking input that there wasn't any sound
12 scientific rationale or basis for having soil test levels
13 higher for animal waste than for fertilizer.

14 Q. You told them that when you were working at --

15 A. Yes.

16 Q. -- Oklahoma State University?

17 A. Yes.

18 Q. And they didn't change the code, did they?

19 A. They didn't.

20 Q. Let's go to Exhibit No. 6, Defendants' 6, please. It
21 should be in your packet. Can you identify for the Court what
22 Exhibit 6 is, Dr. Johnson? It's also on the screen, if it will
23 help you, sir.

24 A. Okay. I see it on the screen, I don't see it in here.
25 It's an animal waste management plan.

1 Q. Do you recall looking at this at your deposition?

2 A. Yes, I do.

3 Q. All right. It's the animal waste management plan for a
4 W.A. Saunders in Delaware County, Oklahoma?

5 A. Yes.

6 Q. Who was it prepared by?

7 A. It's dated September 14th of 2005.

8 Q. You need to speak in your microphone, if you wouldn't
9 mind, sir.

10 A. I'm sorry. It's dated September 14th, 2005. I don't see
11 the location of who it's prepared for.

12 Q. All right. Do you see where it says Oklahoma Department
13 of Agriculture, Food and Forestry?

14 A. Yes.

15 Q. Do you see where it has the stamp on it from the
16 Agricultural Environmental Management Services, State
17 Department of Agriculture?

18 A. Yes.

19 Q. Let's turn over to the third page of the exhibit. The
20 Bates number on it is -- the last three digits are 181.

21 MR. BULLOCK: Could we give Dr. Johnson a copy of it
22 so he can actually look at it?

23 MR. MCDANIEL: It's right in front of him.

24 MR. BULLOCK: I just wanted to be sure he had it.

25 Thank you, counsel.

1 A. It's this one.

2 Q. (By Mr. McDaniel) The third page of the exhibit, Doctor,
3 let me know when you are there please.

4 A. I'm there.

5 Q. Let's look at the introduction. About the middle of the
6 introduction, you see, Dr. Johnson, where it says, quote, "The
7 law requires that the Natural Resources Conservation Service,
8 NRCS, recommendation for poultry litter application rates be
9 followed," closed quote. Do you see that?

10 A. I see that and I believe that's a misquote.

11 Q. So the Department of Agriculture is wrong, too?

12 A. No, I believe that the NRCS does not make recommendations
13 for litter application.

14 Q. Oh, so you don't think this is referring to the Code 590?

15 A. It is referring to the Code 590, but the Code 590 is not a
16 recommendation chart.

17 Q. Okay. You disagree with the characterization of what the
18 Code 590 does?

19 A. I disagree with the way it's characterized here as
20 providing recommendations.

21 Q. Okay. Have you taken that up with the Department of
22 Agriculture?

23 A. No.

24 Q. All right. Let's look at the description of the property,
25 Mr. Saunders' property on the first line of Section B.

1 A. Okay.

2 Q. Do you see where the plan writer says this farm is located
3 in the area of highly vulnerable groundwater?

4 A. Yes.

5 Q. So you would agree that this is something that the plan
6 writer is to take into consideration in preparing this animal
7 waste management plan for the Saunders Farm?

8 A. I agree that it appears on this plan. I mean, I'm reading
9 what you are reading.

10 Q. All right. Let's look at the -- flip over one more page.

11 It's page 4 of the exhibit. The Bates number ends with 182.

12 And if you could -- where it says application rates, do you see
13 a table there, Dr. Johnson, where it appears that Mr. Saunders
14 has six field, five of them have been tested?

15 A. Yes.

16 Q. And Field 3, let's zoom in on Field 3 right there if you
17 could. Field 3 has tested at an STP of 65; do you agree?

18 A. Yes.

19 Q. Now, under your threshold that field could not receive
20 poultry litter; right?

21 A. Under my testimony, that field would not receive poultry
22 litter to benefit from phosphorus, that's correct.

23 Q. All right, and you qualified it as to benefit from
24 phosphorus?

25 A. That's correct.

1 Q. Let's look at page 14 of the exhibit. The Bates number
2 ends with 192, it's a soil test report. Are you there, sir?

3 A. Yes.

4 MR. NANCE: What page, counsel? I'm sorry.

5 MR. MCDANIEL: It is Bates No. 192.

6 Q. (By Mr. McDaniel) This OSU lab report, is this the lab
7 that you were in charge of for some period of time?

8 A. Yes.

9 Q. All right. Would you agree that this is a soil test
10 report for Field No. 3 at Mr. Saunders' farm?

11 A. Yes.

12 Q. It shows that the soil test phosphorus was 65?

13 A. Yes.

14 Q. Agree? Now, let's go down for the interpretation and
15 requirements. Is this what you were saying, Dr. Johnson, when
16 you said if there was a recognized need for a nutrient, this is
17 where I'd look to find that?

18 A. Yes.

19 Q. All right. What does it say about phosphorus on this
20 field?

21 A. It says phosphorus is adequate.

22 Q. What does it say about nitrogen on this field?

23 A. Deficient.

24 Q. Now, it's deficient for nitrogen. You agree that poultry
25 litter could help meet that need; right?

1 A. Yes, yes.

2 Q. So you would agree -- let's look back at page 4 that lists
3 all the fields. It's Bates No. 182. So we've got Field 3 that
4 even though it's got 65 STP, it needs nitrogen and can benefit
5 from poultry litter. I think you just agreed to that?

6 A. Yes.

7 Q. There are four other fields. Would you agree with me,
8 sir, that based upon the soil tests all four of those fields
9 are deficient in phosphorus?

10 A. Yes.

11 Q. So they can benefit from the use of phosphorus?

12 A. That's correct.

13 Q. Or excuse me -- from poultry litter?

14 A. Yes.

15 Q. Let me restate the question. Would you agree that all
16 four of those fields would benefit from the use of poultry
17 litter?

18 A. They could.

19 Q. All right. Now, if this Court enters an injunction as
20 requested banning the use of litter, you'd have to agree with
21 me, Dr. Johnson, that Mr. Saunders would not be able to use his
22 free poultry litter to fertilize these four fields even though
23 you agree that it would be appropriate even under your 65 STP
24 threshold?

25 A. If these same soil conditions existed today, three years

1 after -- or almost three years since they were first sampled,
2 then I would agree. It's my opinion that when poultry litter
3 is used, these deficiencies are quickly corrected and, in fact,
4 exceeded. And so to say whether or not this land could benefit
5 from poultry litter today, I can't say that it would. In fact,
6 I would expect that it would not.

7 Q. All right. Let me -- let's restate the question. Assume
8 for me that these are the current soil test conditions on this
9 farm.

10 A. Yes.

11 Q. Then you would agree that he could benefit from poultry
12 litter on all five of his fields, but if this injunction is
13 entered, he cannot use litter on any of those fields?

14 A. I would agree with you, yes.

15 Q. All right. Are you aware of any evidence that
16 Mr. Saunders' use of poultry litter has polluted any of the
17 waters of the State of Oklahoma with phosphorus?

18 A. No.

19 Q. Now, let's talk about the soil samples you discussed with
20 Mr. Nance that you used to arrive at your opinions. You admit
21 that you do not have sufficient soil samples from the Illinois
22 River Watershed in order to conduct your analysis, that's why
23 you looked at soil samples from the Eucha-Spavinaw; right?

24 A. I looked at all sources of soil samples for that part of
25 the state associated with the disposal of poultry waste.

1 THE COURT: Rather than discuss it any further, let's
2 take the next witness. And I'll just tell you how much time --
3 as you're running out of time, I'll tell you how much time
4 we've got. And I'm going to start putting the stopwatch to it.
5 Call your next witness.

6 MR. PAGE: Your Honor, the State calls Dr. Roger
7 Olsen.

8 THE COURT: Dr. Olsen.

9 ROGER LEE OLSEN

10 Called as a witness on behalf of the plaintiffs, being first
11 duly sworn, testified as follows:

12 THE COURT: State your name for the record, please.

13 THE WITNESS: Roger Lee Olsen.

14 THE COURT: Thank you, Mr. Page.

15 MR. PAGE: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MR. PAGE:

18 Q. Dr. Olsen, would you please summarize for the Court your
19 education?

20 A. Yes, I have a bachelor of science degree in mineral
21 engineering chemistry from the Colorado School of Mines in
22 1972, that's essentially a chemistry degree. Then I have my
23 PhD in geochemistry in 1979 also from the Colorado School of
24 Mines.

25 Q. Dr. Olsen, what work experience do you have that's related

1 demonstrative exhibit. It shows your list of parameters?

2 A. Yes.

3 Q. Sir, the only bacteria in your signature for poultry
4 litter is E. coli, fecal coliforms, Enterococcus and total
5 coliforms; correct?

6 A. That's correct.

7 Q. You know, do you not, sir, that all four types of those
8 bacteria are found in cattle manure?

9 A. I don't know that for sure but I suppose they are, yes.

10 Q. You know, do you not, sir, that all four of those types of
11 bacteria are found in human waste deposited in septic tanks?

12 A. Probably so.

13 Q. You know, do you not, sir, that all four of those bacteria
14 are included in the feces of wildlife that live in the Illinois
15 River Watershed?

16 A. I do not know that for sure.

17 Q. You don't know that?

18 A. No. I'm not a bacteria expert.

19 Q. All right. Dr. Olsen, does your signature allow you to
20 identify -- strike that. Let me approach it this way.

21 Dr. Olsen, your signature does not allow you to identify any
22 farm contracting with Tyson Foods, George's or any other
23 defendant represented in this courtroom as a source of any area
24 of water contamination in the Illinois River, does it?

25 A. You mean does it allow me to identify a specific farm?

1 Q. A specific farm under contract with one of the defendants.

2 A. No, I've not been asked to do that.

3 Q. Does it allow you to identify a specific defendant?

4 A. No, I've not been asked to do that.

5 Q. Going to Demonstrative Exhibit 461, State's Demonstrative
6 Exhibit 461. Dr. Olsen, you prepared this map; correct?

7 A. That's correct.

8 Q. And I didn't quite follow this, so I want to discuss it
9 with you. In your direct examination, there was some attention
10 drawn to the green dots outside of the Illinois River
11 Watershed.

12 A. Yes, sir.

13 Q. Do you recall that?

14 A. Yes, sir.

15 Q. And I think you described those as control areas; is that
16 right?

17 A. There's three green dots. There's one right above the
18 basin, that's Spring Creek. And there's two below the basin,
19 far below the basin, not that far, kind of on the county line
20 there that are Little Lee Creek. And there's a green dot that
21 can't be shown here because it's Dry Creek, it's in the Buffalo
22 Creek area. Those are the reference areas for surface waters.
23 Those other three happen to be springs that were collected. I
24 didn't really associate those were reference areas. Again,
25 they were just trying to collect all the springs. So those are